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HOUSE BILL 24

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO SEX OFFENDER REGISTRATION; REQUIRING SEX OFFENDERS TO PROVIDE TELEPHONE NUMBERS, PAGER NUMBERS, EMAIL ADDRESSES AND SCREEN NAMES WHEN REGISTERING WITH THE COUNTY SHERIFF; REQUIRING SEX OFFENDERS TO PROVIDE NOTICE OF ANY CHANGE IN REGISTRATION INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-4 NMSA 1978 (being Laws 1995, Chapter 106, Section 4, as amended) is amended to read:

"29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

A. A sex offender residing in this state shall register with the county sheriff for the county in which the sex offender resides.

B. A sex offender who is a resident of New Mexico

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1 shall register with the county sheriff no later than ten days
2 after being released from the custody of the corrections
3 department, a municipal or county jail or a federal, military
4 or tribal correctional facility or detention center or being
5 placed on probation or parole. A sex offender who changes
6 [his] residence to New Mexico shall register with the county
7 sheriff no later than ten days after [his] arrival in this
8 state. When a sex offender registers with the county sheriff,
9 [he] the sex offender shall provide the following registration
10 information:

11 (1) [his] the sex offender's legal name and
12 any other names or aliases that [he] the sex offender is using
13 or has used;

14 (2) [his] the sex offender's date of birth;

15 (3) [his] the sex offender's social security
16 number;

17 (4) [his] the sex offender's current address;

18 (5) [his] the sex offender's place of
19 employment;

20 (6) the land line and mobile telephone numbers
21 and the pager number that the sex offender uses, whether or not
22 the accounts are in the offender's name, and the email
23 addresses and screen names that the sex offender uses, whether
24 or not the accounts are in the offender's name, as applicable;

25 [~~6~~] (7) the sex offense for which [he] the

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1 sex offender was convicted; and

2 [~~(7)~~] (8) the date and place of [~~his~~] the sex
3 offense conviction.

4 C. A sex offender who is a resident of another
5 state but who is employed in New Mexico or attending public or
6 private school or an institution of higher education in New
7 Mexico shall register with the county sheriff for the county in
8 which the sex offender is working or attending school or an
9 institution of higher education.

10 D. A sex offender who is a resident of another
11 state but who is employed in New Mexico or attending public or
12 private school or an institution of higher education in New
13 Mexico shall register with the county sheriff no later than ten
14 days after beginning work or school. When the sex offender
15 registers with the county sheriff, [~~he~~] the sex offender shall
16 provide the following registration information:

17 (1) [~~his~~] the sex offender's legal name and
18 any other names or aliases that [~~he~~] the sex offender is using
19 or has used;

20 (2) [~~his~~] the sex offender's date of birth;

21 (3) [~~his~~] the sex offender's social security
22 number;

23 (4) [~~his~~] the sex offender's current address
24 in [~~his~~] the sex offender's state of residence and, if
25 applicable, the address of [~~his~~] the sex offender's place of

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1 lodging in New Mexico while [~~he is~~] working or attending school
2 or an institution of higher education;

3 (5) [~~his~~] the sex offender's place of
4 employment or the name of the school [~~he~~] the sex offender is
5 attending;

6 (6) the sex offense for which [~~he~~] the sex
7 offender was convicted; and

8 (7) the date and place of [~~his~~] the sex
9 offense conviction.

10 E. When a sex offender registers with a county
11 sheriff, the sheriff shall obtain:

12 (1) a photograph of the sex offender and a
13 complete set of the sex offender's fingerprints;

14 (2) a description of any tattoos, scars or
15 other distinguishing features on the sex offender's body that
16 would assist in identifying the sex offender; and

17 (3) a DNA sample [~~of his DNA~~] for inclusion in
18 the sex offender DNA identification system pursuant to the
19 provisions of the DNA Identification Act.

20 F. [~~When a sex offender who is registered changes~~
21 ~~his residence within the same county, the sex offender shall~~
22 ~~send written notice of his change of address to the county~~
23 ~~sheriff no later than ten days after establishing his new~~
24 ~~residence.] When any of the registration information required
25 pursuant to Subsection B of this section changes, a sex~~

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1 offender shall, within ten days, provide written notice of the
2 change to the county sheriff.

3 G. When a sex offender who is registered changes
4 [~~his~~] residence to a new county in New Mexico, the sex offender
5 shall register with the county sheriff of the new county no
6 later than ten days after establishing [~~his~~] the new residence.
7 The sex offender shall also send written notice of the change
8 in residence to the county sheriff with whom [~~he~~] the sex
9 offender last registered no later than ten days after
10 establishing [~~his~~] the new residence.

11 H. When a sex offender who is registered or
12 required to register does not have an established residence,
13 but lives in a shelter, halfway house or transitional living
14 facility or stays in multiple locations in New Mexico, the sex
15 offender shall register with the county sheriff for each county
16 in which the sex offender is living or temporarily located.
17 The sex offender shall register no later than ten days after a
18 change in [~~his~~] living arrangements or temporary location.

19 I. When a sex offender who is registered or
20 required to register is employed, begins a vocation or is
21 enrolled as a student at an institution of higher education in
22 New Mexico, the sex offender shall disclose [~~his~~] the sex
23 offender's status as a sex offender in writing to the county
24 sheriff for the county in which the institution of higher
25 education is located, the law enforcement entity responsible

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1 for the institution of higher education and the registrar for
2 the institution of higher education no later than ten days
3 after beginning employment, beginning a vocation or enrolling
4 at the institution of higher education. The sex offender shall
5 also send written notice of any change regarding [~~his~~]
6 employment, vocation or enrollment status at an institution of
7 higher education to the county sheriff, the law enforcement
8 entity and the registrar no later than ten days after the
9 change in [~~his~~] employment, vocation or enrollment status.

10 J. When a sex offender who is registered or
11 required to register is employed or is enrolled as a student at
12 a public or private school in New Mexico, the sex offender
13 shall disclose [~~his~~] the sex offender's status as a sex
14 offender in writing to the county sheriff for the county in
15 which the school is located and to the principal of the school
16 no later than ten days after enrolling at the school. The sex
17 offender shall also send written notice of any change regarding
18 [~~his~~] enrollment status at a school to the county sheriff and
19 the principal no later than ten days after the change in [~~his~~]
20 enrollment status.

21 K. When a sex offender who is registered or
22 required to register is employed, begins a vocation or
23 volunteers [~~his~~] services, regardless of whether the sex
24 offender receives payment or other compensation, the sex
25 offender shall disclose [~~his~~] the sex offender's status as a

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1 sex offender in writing to [~~his~~] the sex offender's employer,
2 supervisor or person similarly situated. The written
3 disclosure shall be made immediately upon beginning [~~his~~]
4 employment, vocation or volunteer service.

5 L. Following [~~his~~] initial registration pursuant to
6 the provisions of this section:

7 (1) a sex offender required to register
8 pursuant to the provisions of Subsection D of Section 29-11A-5
9 NMSA 1978 shall renew [~~his~~] registration with the county
10 sheriff not less than once in each ninety-day period following
11 the date of the sex offender's initial registration for the
12 entirety of [~~his~~] the sex offender's natural life; and

13 (2) a sex offender required to register
14 pursuant to the provisions of Subsection E of Section 29-11A-5
15 NMSA 1978 shall annually renew [~~his~~] the sex offender's
16 registration with the county sheriff prior to December 31 of
17 each subsequent calendar year for a period of ten years.

18 M. Notwithstanding the provisions of Paragraph (2)
19 of Subsection L of this section, if a sex offender is convicted
20 a second or subsequent time for a sex offense set forth in
21 Subsection E of Section 29-11A-5 NMSA 1978, [~~he~~] the sex
22 offender shall renew [~~his~~] registration with the county sheriff
23 not less than once in each ninety-day period following the date
24 of the sex offender's initial registration for the entirety of
25 [~~his~~] the sex offender's natural life.

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1 N. A sex offender who willfully or knowingly fails
2 to comply with the registration requirements set forth in this
3 section is guilty of a fourth degree felony and shall be
4 sentenced pursuant to the provisions of Section 31-18-15 NMSA
5 1978. A sex offender who willfully or knowingly fails to
6 comply with the registration requirements set forth in this
7 section after a first or subsequent conviction for a violation
8 pursuant to this section is guilty of a third degree felony and
9 shall be sentenced pursuant to the provisions of Section
10 31-18-15 NMSA 1978. The willful failure to comply with any
11 registration requirement set forth in this section shall be
12 deemed part of a continuing transaction or occurrence. A
13 conviction pursuant to this subsection shall not be considered
14 a felony for purposes of the imposition of sentencing
15 enhancements pursuant to the provisions of Section 31-18-17
16 NMSA 1978.

17 O. A sex offender who willfully or knowingly
18 provides false information when complying with the registration
19 requirements set forth in this section is guilty of a fourth
20 degree felony and shall be sentenced pursuant to the provisions
21 of Section 31-18-15 NMSA 1978. A sex offender who willfully or
22 knowingly provides false information when complying with the
23 registration requirements set forth in this section after a
24 first or subsequent conviction for a violation pursuant to this
25 section is guilty of a third degree felony and shall be

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1 sentenced pursuant to the provisions of Section 31-18-15 NMSA
2 1978. The willful providing by a sex offender of false
3 information with respect to the registration requirements set
4 forth in this section shall be deemed part of a continuing
5 transaction or occurrence. A conviction pursuant to this
6 subsection shall not be considered a felony for purposes of the
7 imposition of sentencing enhancements pursuant to the
8 provisions of Section 31-18-17 NMSA 1978."

9 Section 2. Section 29-11A-7 NMSA 1978 (being Laws 1995,
10 Chapter 106, Section 7, as amended) is amended to read:

11 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO
12 REGISTER.--

13 A. A court shall provide a sex offender convicted
14 in that court with written notice of [~~his~~] the sex offender's
15 duty to register pursuant to the provisions of the Sex Offender
16 Registration and Notification Act. The written notice shall be
17 included in judgment and sentence forms provided to the sex
18 offender. The written notice shall inform the sex offender
19 that [~~he~~] the sex offender is required to:

20 (1) register with the county sheriff for the
21 county in which the sex offender will reside or, if the sex
22 offender will not have an established residence, with the
23 county sheriff for each county in which the sex offender will
24 live or be temporarily located pursuant to the provisions of
25 the Sex Offender Registration and Notification Act;

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1 (2) report subsequent changes of [~~address~~]
2 registration information pursuant to the provisions of the Sex
3 Offender Registration and Notification Act;

4 (3) notify the county sheriff of the county
5 [~~he~~] the sex offender resides in if the sex offender intends to
6 move to another state and that the sex offender is required to
7 register in the other state pursuant to the provisions of the
8 Sex Offender Registration and Notification Act;

9 (4) disclose [~~his~~] the sex offender's status
10 as a sex offender in writing when [~~he~~] the sex offender begins
11 employment, begins a vocation or enrolls as a student at an
12 institution of higher education in New Mexico to the county
13 sheriff for the county in which the institution of higher
14 education is located and to the law enforcement entity and
15 registrar for the institution of higher education pursuant to
16 the provisions of the Sex Offender Registration and
17 Notification Act;

18 (5) provide written notice of any change
19 regarding [~~his~~] the sex offender's employment, vocation or
20 enrollment status at an institution of higher education to the
21 county sheriff, the law enforcement entity and the registrar
22 pursuant to the provisions of the Sex Offender Registration and
23 Notification Act;

24 (6) disclose [~~his~~] the sex offender's status
25 as a sex offender in writing, when [~~he~~] the sex offender

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1 enrolls as a student at a private or public school in New
2 Mexico, to the county sheriff for the county in which the
3 school is located and to the principal of the school pursuant
4 to the provisions of the Sex Offender Registration and
5 Notification Act;

6 (7) provide written notice of any change
7 regarding [~~his~~] the sex offender's enrollment status at a
8 public or private school in New Mexico to the county sheriff
9 and the principal of the school pursuant to the provisions of
10 the Sex Offender Registration and Notification Act;

11 (8) disclose [~~his~~] the sex offender's status
12 as a sex offender in writing to [~~his~~] the sex offender's
13 employer, supervisor or other person similarly situated when
14 [~~he~~] the sex offender begins employment, begins a vocation or
15 volunteers [~~his~~] the sex offender's services, regardless of
16 whether the sex offender receives payment or other
17 compensation, pursuant to the provisions of the Sex Offender
18 Registration and Notification Act; and

19 (9) read and sign a form that indicates that
20 the sex offender has received the written notice and that a
21 responsible court official, designated by the chief judge for
22 that judicial district, has explained the written notice to the
23 sex offender.

24 B. The corrections department, a municipal or
25 county jail or a detention center, at the time of release of a

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1 sex offender in its custody, shall provide a written notice to
2 the sex offender of [~~his~~] the sex offender's duty to register,
3 pursuant to the provisions of the Sex Offender Registration and
4 Notification Act. The written notice shall inform the sex
5 offender that [~~he~~] the sex offender is required to:

6 (1) register with the county sheriff for the
7 county in which the sex offender will reside or, if the sex
8 offender will not have an established residence, with the
9 county sheriff for each county in which the sex offender will
10 live or be temporarily located pursuant to the provisions of
11 the Sex Offender Registration and Notification Act;

12 (2) report subsequent changes of [~~address~~]
13 registration information pursuant to the provisions of the Sex
14 Offender Registration and Notification Act;

15 (3) notify the county sheriff of the county
16 [~~he~~] the sex offender resides in if the sex offender intends to
17 move to another state and that the sex offender is required to
18 register in the other state pursuant to the provisions of the
19 Sex Offender Registration and Notification Act;

20 (4) disclose [~~his~~] the sex offender's status
21 as a sex offender in writing when [~~he~~] the sex offender begins
22 employment, begins a vocation or enrolls as a student at an
23 institution of higher education in New Mexico to the county
24 sheriff for the county in which the institution of higher
25 education is located and to the law enforcement entity and

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1 registrar for the institution of higher education pursuant to
2 the provisions of the Sex Offender Registration and
3 Notification Act;

4 (5) provide written notice of any change
5 regarding [~~his~~] the sex offender's employment, vocation or
6 enrollment status at an institution of higher education to the
7 county sheriff, the law enforcement entity and the registrar
8 pursuant to the provisions of the Sex Offender Registration and
9 Notification Act;

10 (6) disclose [~~his~~] the sex offender's status
11 as a sex offender in writing, when [~~he~~] the sex offender
12 enrolls as a student at a private or public school in New
13 Mexico, to the county sheriff for the county in which the
14 school is located and to the principal of the school pursuant
15 to the provisions of the Sex Offender Registration and
16 Notification Act;

17 (7) provide written notice of any change
18 regarding [~~his~~] the sex offender's enrollment status at a
19 public or private school in New Mexico to the county sheriff
20 and the principal of the school pursuant to the provisions of
21 the Sex Offender Registration and Notification Act;

22 (8) disclose [~~his~~] the sex offender's status
23 as a sex offender in writing to [~~his~~] the sex offender's
24 employer, supervisor or other person similarly situated when
25 [~~he~~] the sex offender begins employment, begins a vocation or

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1 volunteers [~~his~~] the sex offender's services, regardless of
2 whether the sex offender receives payment or other
3 compensation, pursuant to the provisions of the Sex Offender
4 Registration and Notification Act; and

5 (9) read and sign a form that indicates that
6 the sex offender has received the written notice and that a
7 responsible corrections department official, designated by the
8 secretary of corrections, or a responsible municipal or county
9 jail official or detention center official has explained the
10 written notice to the sex offender.

11 C. A court, the corrections department, a municipal
12 or county jail or a detention center shall also provide written
13 notification regarding a sex offender's release to the sheriff
14 of the county in which the sex offender is released and to the
15 department of public safety.

16 D. The department of public safety, at the time it
17 is notified by officials from another state that a sex offender
18 will be establishing residence in New Mexico, shall provide
19 written notice to the sex offender of [~~his~~] the sex offender's
20 duty to register pursuant to the provisions of the Sex Offender
21 Registration and Notification Act."

22 Section 3. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2009.